

REMARKS

This paper is responsive to the Final Office Action dated February 11, 2004, having a shortened statutory period expiring on May 11, 2004, in which:

Claims 1-36 were pending in the application; and

Claims 1-36 were rejected.

Claims 1, 6, 8-10, 12-14, 17-18, 20, 22-23, 25-26, 30, and 33-34 have been amended, claim 35 has been canceled without prejudice or disclaimer of the subject matter recited therein, and no new claims have been added by this amendment. Accordingly, claims 1-34 and 36 remain currently pending in the present application.

Formal Matters

Applicants wish to express their appreciation for the courtesies extended by the Examiner during the interview teleconferences of April 7, 2004 and April 9, 2004 between the Examiner and Applicants' representative. While specific agreement as to Applicants' claims was not reached, Applicants respectfully submit that the amendments made herein are in harmony with the positions expressed during the described interview teleconferences and that Applicants' claims, as currently submitted, are in condition for allowance.

Rejection of Claims under 35 U.S.C. §102

In the present Office Action, claims 1-5, 13, 15-17, 20, 24-25, 27-29, and 36 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,188,686, issued to Smith (hereinafter "*Smith*"). While not conceding that the Examiner's cited reference qualifies as prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree, traverse in part, and in part overcome the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that one or more of the Examiner's cited references do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

Applicants respectfully submit that the Examiner's cited references fail to teach each element of Applicants' claims. More specifically, Applicants respectfully submit that *Smith* fails to teach, "identifying a portion of said plurality of portions comprising an overhead byte" (Applicants' claim 1, as amended) and/or "identifying said one of said plurality of portions as containing metadata" (Applicants' claim 36) as claimed.

Regarding Applicants' claim 1, the Examiner states in the present Office Action, that *Smith* teaches a system including,

a plurality of inputs and a plurality outputs (configuring said switch matrix to couple a plurality of inputs to a plurality of outputs). See Abstract. In one embodiment, the connections means may comprise time-division multiplexing means for each data delivery group, operable repetitively to perform a preselected sequence of switching cycles that includes at least one fist switching cycle. The switching cycles are preferably of the same duration (a time period of said minimal concurrency defining a switching period)...The sequence will normally include one type of switching cycle for each data unit of the group, e.g. first, second, third, and fourth switching cycles for a four-data-unit group (each one of said plurality of information streams comprises a plurality of portions in a sequence and is received at a corresponding one of said plurality of inputs). In time-division multiplexing, each of the portions of data from the group will have its own time slot for being transmitted – the reason for having time slots is so that collisions of data can be avoided (a one of said plurality of portions is in a specific position in said sequence; a time period during which said one of said plurality of portions transits said switching matrix is at least minimally concurrent with said time period for each other one of said plurality of information streams). It is inherent that the switching apparatus must reconfigure itself during the different time periods so that information from the different inputs can reach the different outputs (reconfiguring said switch matrix during said switching period). See col. 3, line 50-col. 4, line 26; col. 25, lines 1-64; col. 26, lines 21—59, and col. 28, lines 24-49.

Applicants respectfully submit however that the present Office fails to indicate how and/or where *Smith* teaches, and that the cited portions of *Smith* fail to teach, "identifying a portion of said plurality of portions comprising an overhead byte" as claimed. Applicants therefore respectfully submit that claim 1, as amended herein, is not anticipated by *Smith*.

Regarding Applicants' claim 36, the Examiner states in the present Office Action that, "data and metadata can be considered one in the same – it will still be 'data' and formatted similarly." Applicants respectfully disagree and request that the Examiner cite

with specificity those portions of *Smith* which are believed to teach each element of Applicants' claim(s) as required by 37 C.F.R. §1.104(c)(2). More specifically with regard to Applicants' claim 36, the Examiner is requested to indicate that specific portion of *Smith* which is believed to teach, "identifying said one of said plurality of portions as containing metadata" as claimed.

Applicants further respectfully submit, as discussed in the Examiner interview teleconference of April 7, 2004, that for purposes of an anticipation rejection under 35 U.S.C. §102, "data" and "metadata" may not be "considered one in the same", that the Examiner's cited portions of *Smith* fail to teach an information stream which "contains data and metadata within a plurality of portions" and further fail to teach, "identifying said one of said plurality of portions as containing metadata" as claimed. Consequently, Applicants respectfully submit that, when read as a whole, claim 36 is not anticipated by *Smith*.

Applicants therefore respectfully submit that *Smith* fails to teach either, "identifying a portion of said plurality of portions comprising an overhead byte" (Applicants' claim 1, as amended) or "identifying said one of said plurality of portions as containing metadata" (Applicants' claim 36) as claimed. Applicants' claims 1 and 36 are therefore independently allowable over the Examiner's cited reference(s) and indication thereof is respectfully requested. Applicants' claims 13, 20, and 30, (and all claims depending directly or indirectly therefrom) each contain one or more limitations substantially similar to those described with respect to Applicants' claim 1 and are therefore allowable for at least those reasons stated for the allowability of claim 1.

Rejection of Claims under 35 U.S.C. §103

In the present Office Action, claims 6, 10-12, 18-19, 21-23, 30-33, and 35 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Smith* in view of U.S. Pat. No. 5,410,600, issued to Toy (hereinafter "*Toy*") and claims 7-9, 14, 26 and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Smith* in view of *Toy* in further view of U.S. Pat. No. 6,266,333, issued to Kartalopoulos (hereinafter "*Kartalopoulos*"). While not conceding that the Examiner's cited reference(s) qualify as

prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree and overcome the rejection as follows. Applicants reserve the right, for example, in a continuing application, to establish that one or more of the Examiner's cited references do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

Applicants respectfully submit that the Examiner's cited portions of neither *Toy* nor *Kartalopoulos*, teach, show, or suggest, (or have been cited by the Examiner as teaching, showing, or suggesting) "identifying a portion of said plurality of portions comprising an overhead byte" (Applicants' claim 1, as amended) as claimed. As it has been shown hereinabove that *Smith* fails to teach, show, or suggest such "identifying" it is further submitted that no combination of *Smith*, *Toy*, and/or *Kartalopoulos* may be construed as teaching, showing, or suggesting this element and that Applicants' claims 1, 13, 20, and 30, and all claims depending therefrom are accordingly allowable.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5097.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop AF, COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, V.A. 22313-1450, on
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Date of Signature

Respectfully submitted,



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